

DAM AND RESERVOIR SAFETY COUNCIL MEETING
DEPARTMENT OF NATURAL RESOURCES
GEOLOGICAL SURVEY AND RESOURCE ASSESSMENT DIVISION
CONFERENCE ROOM
ROLLA, MISSOURI

March 10, 2004

Mary Hagerty, Chairman of the Dam and Reservoir Safety Council, called the meeting to order at 10:00 a.m. in the conference room at the Geological Survey and Resource Assessment Division in Rolla, Missouri.

Council members present were Mary Hagerty, Dean E. Freeman, Zoretta Schoonover, John Boyer, Jeff Cawlfeld and Richard Frueh. Members of the Water Resources Program (WRP) present were Jim Alexander, Tammy Theilen, Robert Clay, and Matthew Dunn. Representing the Attorney General's Office was Shannon Haney, Assistant Attorney General.

OPEN SESSION ADJOURNED INTO CLOSED SESSION

Richard Frueh moved that the Dam and Reservoir Safety Council meet in closed session at this time, on March 10, 2004, at the Department of Natural Resources, Geological Survey and Resource Assessment Division Conference Room, in Rolla, Missouri for the purpose of discussing personnel actions, legal actions, causes of actions, or litigation, confidential and privileged matters with the Board's attorney, testing and examinations, personnel records or applications, or records which are otherwise protected from disclosure by law as provided for in Section 610.021, RSMo.

Jeff Cawlfeld seconded the motion.

Mary Hagerty, Chairman, noted that it had been moved and seconded that the Dam and Reservoir Safety Council meet in Closed Session at this time, on March 10, 2004, at the Department of Natural Resources, Geological Survey and Resource Assessment Division Conference Room, in Rolla, Missouri for the purpose of discussing personnel actions, legal actions, causes of actions, or litigation, confidential and privileged matters with the Board's attorney, testing and examinations, personnel records or applications, or records which are otherwise protected from disclosure by law as provided for in Section 610.021, RSMo. She then asked for a roll call vote.

Dean Freeman, yes; Zoretta Schoonover, yes; Jeff Cawlfeld, yes; John Boyer, yes; and Richard Frueh, yes.

Mary Hagerty stated that the motion had been voted on unanimously to meet in closed session today, March 10, 2004.

John Boyer made a motion to adjourn from closed session and return to open session. Dean Freeman seconded the motion.

Mary Hagerty noted that it had been moved and seconded to adjourn from closed session and return to open session. She then asked for a roll call vote.

Dean Freeman, yes; Zoretta Schoonover, yes; Jeff Cawlfeld, yes; John Boyer, yes; and Richard Frueh, yes.

INTRODUCTION OF GUESTS

Guests present were Bill Duley, Deputy Director of the Geological Survey and Resource Assessment Division; Steve Sturgess, Program Director of Geological Survey Program and Clarence Schoonover. Mary Hagerty asked everyone to introduce themselves and invited questions and comments as they had input into the meeting.

MINUTES OF THE DECEMBER 17, 2003 COUNCIL MEETING

Mary Hagerty asked if anyone had any comments regarding the December 17, 2003 council meeting minutes. Zoretta Schoonover made a motion to accept the minutes of the December 17, 2003 meeting as written. Richard Frueh seconded the motion and the motion passed.

REGULATORY IMPACT REPORT

Mr. Alexander introduced Mr. Steve Sturgess, Program Director of the Geological Survey Program. Mr. Alexander explained that Mr. Sturgess was the division representative on the Commissioner's Core Work Group and would explain to them how the Regulatory Impact Report (RIR) would affect the council.

Mr. Sturgess explained that due to the regulatory nature of the Well Installation Board and the Dam and Reservoir Safety Council our Division has been involved in a Department wide effort to create the RIR. This report was created to improve the consistency between all of the Boards and Commissions within the Department of Natural Resources when making rule changes. He explained that the primary reason for implementing this report was due to the criticism that some of the larger boards received in regards to the amount of public input that was received when making rule changes.

As a result of this criticism, legislation was introduced last year and again this year that mandate changes to the way the Department goes about rule making. He explained that the legislation would mandate that the Dam and Reservoir Safety Council complete the RIR when doing rule changes.

After a brief discussion of the RIR process, Mr. Boyer made a motion to adopt the Regulatory Impact Report. Mr. Freeman seconded it and the motion passed.

STATUS OF PERMITS

The council was updated on the number of permits that the program has issued since the last meeting, the new dams that are currently under construction, and where the program stands with regard to bringing the total number of regulated dams into compliance.

COUNCIL ACTION & UPDATE

Lake Hanna Dam – MO30314 – Mr. Alexander gave a brief history of the dam. He explained that the owners had performed work on the spillway without a construction permit and as a result of that

work significantly reduced the spillway capacity. He told the council that everything had been resolved with this dam and a permit should be issued soon.

Mississippi Lime Upper South Dam – MO31955 – Mr. Alexander explained to the council that the permit had expired on this dam and the owner had failed to submit the permit application to renew the permit. Just prior to the council meeting being a permit renewal application was submitted. Therefore, no action is necessary at this time.

Wood Brothers Lake Dam – MO31535 – Mr. Alexander explained to the council that the permit had expired for this dam and the owner had failed to submit an application to renew the permit. However prior to this meeting, an application to renew the permit was submitted. Therefore, no action is necessary at this time.

Seasons Ridge Golf Course Dam – MO31937 – Mr. Alexander explained to the council that the permit had expired for this dam and the owner had failed to submit an application to renew the permit. However prior to this meeting, an application to renew the permit was submitted. Therefore, no action is necessary at this time.

Sweetwater Tailings Dam – MO30166 – Mr. Alexander explained to the council that the permit had expired for this dam and the owner had failed to submit an application to renew the permit. However prior to this meeting, an application to renew the permit was submitted. Therefore, no action is necessary at this time.

COUNCIL NOTICE OF VIOLATION

Brays Lake Dam – MO30098 – Mr. Alexander gave a brief history of the dam starting with when the permit was originally issued in 1987. He explained that the permit was issued contingent upon the owner being willing to maintain the reservoir at or below elevation 925.0 (site datum) and the owner agreed to sign a statement agreeing to this. However, since that time the owner has not consistently lived up to his obligation to keep the water level drawn down. The owner's failure to live up to the conditions of the permit led to the permit not being renewed in 1997.

Following several years of trying to get the owner to comply with the conditions of the permit, the owner was sent a staff notice of violation on December 9, 2003. This letter asked him to retain an engineer to inspect the dam and submit a permit renewal application by March 1, 2004. To date, the owner has not responded to this request. Prior to the council meeting staff from the program made a site visit to the dam and found that the lake level is still above the agreed upon elevation.

Mr. Alexander recommended that the council continue the enforcement process by sending the owner a council notice of violation asking the owner to hire an engineer to inspect the dam and submit a permit renewal application by June 1, 2004.

Ms. Hagerty clarified that what we were trying to accomplish was to get the owner to lower the lake level to the appropriate elevation and to have the dam inspected. She asked how the inspection would be able to get the owner to lower the lake level. Mr. Alexander replied that when the inspector realized that the lake level was above the elevation, the owner would be notified that the permit could not be renewed until the correct elevation was reached.

Mr. Frueh made a motion that the owner be issued a Council Notice of Violation directing the owner to immediately lower the lake level to elevation 925.0 (site datum). As soon as the lake level is at that elevation, the owner will retain the services of an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by June 1, 2004. Mr. Cawlfieled seconded the motion and it passed.

Old Mines Tailings Dam – MO30706 – Mr. Alexander gave a brief history of the dam starting with the permit not being renewed in 1997 due to inadequate maintenance and gravel being removed from the dam. Following enforcement actions taken by the program and council, the Dam Safety Program was notified that Big River Land Company had sold the dam to Tim and Dale Thebeau. After attempts to get the Thebeaus to schedule a permit renewal inspection by the Dam Safety staff failed, a staff notice of violation was sent to the owners. They were asked to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, they have not responded to this NOV.

Mr. Frueh made a motion to send a Council Notice of Violation to the owners asking them to hire an engineer to inspect their dam and submit a permit renewal application by June 1, 2004. Mr. Freeman seconded the motion and it passed.

Flying S Ranch Dam #2 – MO31124 – Mr. Alexander gave a brief history of the dam. He explained that registration permit R-183 expired on March 21, 2002. Prior to the permit expiring, the owner was contacted to remind him of the need to contact the Dam Safety staff to schedule a permit renewal inspection. The owner failed to schedule the inspection and the permit expired. The owner also did not respond to later requests to schedule the inspection. On January 12, 2004, the owner was sent a staff notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. The owner was notified that he was in violation of the dam safety law because his permit was expired and he had not submitted a permit renewal application. To date, the owner has not responded to the staff notice of violation.

Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application by June 1, 2004.

Mr. Freeman made a motion to send a Council Notice of Violation to the owner asking that he hire an engineer, have his dam inspected and submit a permit renewal application by June 1, 2004. Mr. Cawlfieled seconded the motion and it passed.

Cool Valley Lake Dam – MO30554 – Mr. Alexander gave a brief history of the dam. He told the council that the last time someone from our office had been out to the dam it appeared as if the hazard classification had changed on the dam. The question of the hazard classification was not resolved and there is nothing in the file to show that an inspection report was written up for the dam.

Mr. Alexander reported that a notice of violation was sent to the owner of the dam on January 12, 2004 asking the owner to retain an engineer to inspect the dam and submit a permit renewal application by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application by June 1, 2004.

Mr. Cawlfeld made a motion to send a Council Notice of Violation to the owner asking him to hire an engineer, have his dam inspected and submit a permit renewal application by June 1, 2004. Mr. Freeman seconded the motion and it passed.

Yarger Lake Dam – MO30237 – Jim Alexander gave a brief history of the dam. Mr. Alexander told the council that the owner was an attorney and he is questioning whether his dam meets the legal definition of “dam” found in Section 236.400(5) of the Revised Statutes of Missouri. His question stems from the fact that to date the lake has not maintained a permanent pool of water. Mr. Alexander commented that the resolution of this legal issue would best be handled by the Attorney General’s Office.

Mr. Alexander reported that a permit was previously issued for the dam and had been renewed twice. The last renewed permit expired on March 10, 2002. Prior to the permit expiring, the owner was sent a notice that he would need to have his dam re-inspected to have his permit renewed. The owner sent a letter stating that he did not have a dam and therefore would not have the dam inspected. As a result, the permit expired and the owner is now in violation of the Dam Safety Law for not having a valid permit for his dam.

Ms. Hagerty asked to see the definition of a dam. Ms. Haney read the definition, which states that a dam is any artificial or man-made barrier, which does or may impound water. Mr. Alexander stated that he could not find a single photo in the file that showed the lake holding water. However due to the lake having a relatively large drainage area, water is periodically impounded, at least for a short period of time.

After some further discussion, Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application by June 1, 2004.

After some discussion, Mr. Frueh made a motion to send a Council Notice of Violation to the owner asking him to hire an engineer, have his dam inspected and submit a permit renewal application by June 1, 2004. Mr. Freeman seconded the motion and it passed.

Carter Lake Dam – MO31156 – Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on April 23, 2003 advising him that the registration permit for the Carter Lake Dam would expire on July 3, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 12, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Carter Lake Dam and submit a permit renewal application by June 1, 2004.

Mr. Boyer made a motion that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Carter Lake Dam and submit a permit renewal application by June 1, 2004. Ms. Schoonover seconded the motion and it passed.

Mineral Point #1 Dam – MO30705 – Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on April 23, 2003 advising him that the registration permit for the Mineral Point #1 Dam would expire on July 19, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Mineral Point #1 Dam and submit a permit renewal application by June 1, 2004.

Mr. Frueh made a motion that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Mineral Point #1 Dam and submit a permit renewal application by June 1, 2004. Mr. Cawlfeld seconded the motion and it passed.

Lauck Lake Dam – MO40068 – Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on April 23, 2003 advising him that the registration permit for the Lauck Lake Dam would expire on July 21, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did request an inspection for his dam but it was not completed before the state inspections ended on July 1, 2003. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Alexander recommended that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Lauck Lake Dam and submit a permit renewal application by June 1, 2004.

Mr. Freeman made a motion that the council issue the owner a notice of violation asking him to retain an engineer to inspect the Lauck Lake Dam and submit a permit renewal application by June 1, 2004. Mr. Boyer seconded the motion and it passed.

Ms. Hagerty asked if the remaining dams had any problems other than they have not submitted a permit renewal application. Mr. Alexander replied that the rest are all permit violations and asked if the council would like to do the remaining dams all at one time or individually. Ms. Haney said that it would be fine to do them all together if that was acceptable to the council. The general consensus was that this was how we would proceed.

Mr. Alexander gave a brief history of each of the remaining dams.

Koepke North & South Dam – MO30515 & MO31724 – Mr. Alexander gave a brief history of both dams. He reported that letters were sent to the owner on April 23, 2003 advising him that the registration permit for the Koepke North and South Dams would expire on July 24, 2003 and that they needed to contact the Water Resources Program to schedule a renewal inspection. The owner did request an inspection for their dam but it was not completed before the state inspections ended on July 1, 2003. On January 13, 2004, the owner was sent notices of violation asking him to retain an

engineer to inspect the dams and submit permit renewal applications to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Higbee City Lake Dam – MO10660 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the City of Higbee on June 23, 2003 advising them that the registration permit for the Higbee City Lake Dam would expire on August 2, 2003 and that they needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the City of Higbee was sent a notice of violation asking them to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Gun Club Lake Dam - MO30476 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on May 26, 2003 advising him that the registration permit for the Gun Club Lake Dam would expire on August 8, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Lipps Lake Dam – MO30214 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on June 23, 2003 advising him that the registration permit for the Lipps Dam would expire on August 12, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Settle Mine Tailings Dam #2 – MO30479 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on July 10, 2003 advising him that the registration permit for the Settle Mine Tailings Dam #2 would expire on September 6, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Cadet Mine Tailings Dam – MO30715 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on July 10, 2003 advising him that the registration permit for the Cadet Mine Tailings Dam would expire on September 7, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Owl Creek Estates Dam #2 – MO31959 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on July 10, 2003 advising him that the registration permit for the Owl Creek Estates Dam #2 would expire on September 15, 2003 and that he needed to contact

the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter prior to the state inspection program ending and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Khani Dam – MO32062 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on June 23, 2003 advising him that the safety permit for the Khani Dam would expire on September 7, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did not respond to this letter prior to the state inspection program ending and the permit expired. On January 13, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

LaBelle Old City Lake Dam – MO10372 - Mr. Alexander gave a brief history of the dam. He reported that a letter was sent to the owner on June 9, 2003 advising him that the registration permit for the LaBelle Old City Lake Dam would expire on September 19, 2003 and that he needed to contact the Water Resources Program to schedule a renewal inspection. The owner did respond to this letter but the inspection was not scheduled prior to the state inspection program ending and the permit expired. On January 14, 2004, the owner was sent a notice of violation asking him to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Dresser #10 Dam – MO31153 - Mr. Alexander gave a brief history of the dam. He reported that the Water Resources Program was notified on January 10, 2004 that the Dresser #10 Dam had been sold to Mr. Jeremy Gilbert. A notice of violation was sent to the owner on January 14, 2004 advising him that the registration permit for the dam had expired on March 21, 2002. The owner was asked to retain an engineer to inspect the dam and submit a permit renewal application to the Water Resources Program by March 1, 2004. To date, the owner has not complied with the notice of violation.

Mr. Cawlfeld made a motion to send Council Notice's of Violation to the owners of the Koepke North and South Dams, Higbee City Lake Dam, Gun Club Lake Dam, Lipps Lake Dam, Settle Mine Tailings Dam #2, Cadet Mine Tailings Dam, Owl Creek Estates Dam #2, Khani Dam, LaBelle Old City Lake Dam, and the Dresser #10 Dam asking them to hire an engineer to inspect their dam(s) and submit a permit renewal application to the Water Resources Program by June 1, 2004. Mr. Frueh seconded the motion and it passed.

FY-2004 BUDGET

Bill Duley, Deputy Director for the Geological Survey and Resource Assessment Division updated the council on the status of the budget for FY-04. He reported that the House Sub-Committee has added one FTE back into the Water Resources Program. This position would be an engineer that would replace one of the two engineering positions lost in last year's cuts. He told the council that the likelihood of that position remaining in the budget was not very good when it was sent up to the full Senate. Mr. Alexander commented that if we were to get the two positions back, the program

had every intention of doing permit renewal inspections for the dam owners at no cost, which is the way they had been done in the past.

FINANCIAL DISCLOSURE STATEMENT REMINDER

Mr. Alexander reminded the council members that the deadline for filing financial statements was rapidly approaching and that they needed to get them turned in.

DATE AND LOCATION OF NEXT COUNCIL MEETING

The next meeting of the Dam and Reservoir Safety Council will be June 9, 2004 at 10:00 a.m. Due to construction work that will start in May 2004, the conference room at the Geological Survey and Resource Assessment Division will not be available again until next fall. Alternate meeting sites will be looked into at the University of Missouri – Rolla, Civil Engineering Building.

VOTE TO GO INTO CLOSED SESSION AT THE BEGINNING OF THE NEXT MEETING

Mr. Frueh made a motion that the Dam and Reservoir Safety Council meet in closed session at 10:00 a.m., with the opening session beginning at 10:30 a.m., on June 9, 2004 at the next regular council meeting for the purpose of discussing personnel actions, legal actions, causes of action, or litigation, confidential and privileged matters with the council's attorney, testing and examination, personnel records or applications or records which are otherwise protected from disclosure by law as provided for in Section 610.021, RSMo.

Mr. Boyer seconded the motion. Roll Call vote: Zoretta Schoonover, yes; John Boyer, yes; Dean Freeman, yes; Jeff Cawlfeld, yes; Richard Frueh, yes. Motion carried to move into closed session at the meeting on June 9, 2004.

MEETING ADJOURNED

Jeff Cawlfeld made a motion to adjourn the meeting. Mr. Frueh seconded the motion and it passed.

Respectfully Submitted,

Tammy Theilen